

Message Text

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ACTION ARA-10

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C O N F I D E N T I A L CARACAS 3976

E.O. 11652: GDS

TAGS: PINS, ASEC, VE

SUBJ: NIEHOUS KIDNAPPING

1. THE DCM, PAO, INFORMATION OFFICER AND I MET LAST NIGHT WITH OWENS-ILLINOIS REPRESENTATIVE CALVIN PHILLIPS AND THOMAS HUGHES, PRESIDENT OF THE VENEZUELAN-AMERICAN CHAMBER OF COMMERCE AND OWENS-ILLINOIS' LOCAL COUNSEL. PHILLIPS SAID HE AND TWO OF HIS VENEZUELAN COLLEAGUES HAD BEEN CALLED TO THE MINISTRY OF INTERIOR THAT EVENING TO MEET WITH MINISTER LEPAGE, MINISTER OF DEVELOPMENT CASAL, MINISTER OF INFORMATION GROOSCORS AND MINISTER OF STATE CARMELO LAURIA. LEPAGE READ TO THEM THE GOV COMMUNIQUE AND ASKED THAT O-I BEGIN NEGOTIATIONS FOR DIVESTITURE THAT EVENING WITH LAURIA. PHILLIPS REPLIED THAT HE WAS NOT AUTHORIZED TO REPRESENT THE COMPANY AT THAT LEVEL BUT INFORMED THE VENEZUELAN THAT VICE PRESIDENT WILLIAM COLEMAN WOULD BE ARRIVING THIS AFTERNOON. IT WAS HIS IMPRESSION THAT THE GOV WILL PRESS COLEMAN FOR IMMEDIATE TALKS. AS FAR AS WE CAN DETERMINE, NO PRESIDENTIAL DECREE ON THE ISSUE HAS AS YET BEEN ISSUED AND THE NEGOTIATIONS WOULD TAKE PLACE ON THE BASIS OF THE GOV STATEMENTS IN THE COMMUNIQUE.

2. LEPAGE EXPLAINED TO THE O-I REPRESENTATIVES THAT THE GOVERNMENT WAS DETERMINED TO MAKE NO CONCESSIONS TO THE
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KIDNAPPERS. HE COMMENTED THAT A POLICY OF ABSOLUTE FIRMNESS

IS REQUIRED IN ORDER TO PREVENT THIS TERRORIST ACT FROM SETTING OFF A CHAIN OF SIMILAR ASSAULTS ON PUBLIC ORDER OF THE KIND EXPERIENCED IN URUGUAY AND ARGENTINA. WHEN QUESTIONED BY PHILLIPS AS TO THE EFFECT OF THE GOVERNMENT'S ANNOUNCEMENT ON THE SAFETY OF NIEHOUS, LEPAGE EXPRESSED CONFIDENCE THAT NIEHOUS WOULD BE QUICKLY RELEASED ONCE THE KIDNAPPERS REALIZE THAT ALL POSSIBILITIES FOR NEGOTIATIONS ARE NOW CLOSED. THIS JUDGMENT APPEARS TO HAVE BEEN BASED ON NOTHING MORE THAN A SUBJECTIVE EVALUATION. ACCORDING TO PHILLIPS, LEPAGE MADE CLEAR THAT NO FURTHER NEGOTIATIONS BETWEEN THE COMPANY AND THE KIDNAPPERS WOULD BE PERMITTED. HE DID NOT ORDER THE O-I OFFICIALS TO LEAVE THE COUNTRY BUT STATED THAT THE COMPANY'S FURTHER PRESENCE HERE IS REGARDED AS "UNDESIRABLE" IN VIEW OF ITS FAILURE TO ADHERE TO VENEZUELAN LAW.

3. WE DISCUSSED WITH PHILLIPS AND HUGHES TWO CRITICAL QUESTIONS: HAS THE COMPANY IN FACT VIOLATED VENEZUELA'S CONSTITUTIONAL AND/OR LEGAL PROVISIONS? WAS THE COMPANY ADEQUATELY FOREWARNED OF THE CONSEQUENCES OF PUBLICATION? WITH RESPECT TO THE FIRST, HUGHES CITED ARTICLE 66 OF THE CONSTITUTION WHICH PROHIBITS INTER ALIA "PROPAGANDA FOR WAR, THAT WHICH OFFENDS PUBLIC MORALS, AND THAT FOR THE PURPOSE OF INVITING DISOBEDIENCE OF THE LAWS." HUGHES THOUGHT AS A PRELIMINARY READING THAT THE APPLICABILITY OF THIS PROVISION TO THE CURRENT CASE WOULD BE INTENUOUS PROPOSITION. HE ALSO RAISED THE QUESTION OF WHAT WOULD APPEAR TO BE EXTRA-TERRITORIAL REACH. (WE NOTE THE AP DISPATCH FROM ARUBA YESTERDAY QUOTING PEDRO PENZINI, EDITOR OF EL NACIONAL, AS TELLING THE INTER-AMERICAN PRESS ASSOCIATION THAT POLICE MEASURES TAKEN HERE TO PREVENT PUBLICATION OF THE KIDNAPPERS' COMMUNIQUE ARE LEGAL SINCE VENEZUELAN LAW BANS "WAR PROPAGANDA." IT WOULD SEEM TO US THAT THE GOV COULD MAKE AT LEAST A MINIMAL CASE ON THE BASIS OF AN ASSESSMENT THAT O-I'S ACTIONS CONSTITUTE "INCITING DISOBEDIENCE OF THE LAWS." WE ALSO NOTE THE CONSTITUTIONAL PROVISION THAT EXPROPRIATION MUST BE FOR "PUBLIC BENEFIT OR SOCIAL INTEREST"-ARTICLE 101.)

4. AS FOR THE SECOND POINT, PHILLIPS SAID THE COMPANY HAD UNDERSTOOD THAT THE GOV WOULD BE DISPLEASED BY PUBLICATION ABROAD BUT CALCULATED ON THE BASIS OF LONGAN'S READING OF THE SITUATION AND HIS OWN RECOMMENDATIONS THAT THE ISSUE COULD BE SMOOTHED OVER. (LONGAN TELLS US HE ADVISED THE COMPANY STRONGLY

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AGAINST PUBLICATION AND WARNED OF FUTURE CONSEQUENCES TO ITS OPERATIONS HERE). PHILLIPS INDICATED HE HAD GIVEN THE COMPANY HIS JUDGMENT THAT THE GOV REACTION WOULD BE NOTHING MORE THAN A

"REPRIMAND." PHILLIPS ALSO REVEALED THAT MINISTER OF INTERIOR LEPAGE HAD CALLED IN COMPANY REPRESENTATIVES LAST THURSDAY TO WARN THEM THAT "NO PUBLIC NEGOTIATIONS" WOULD BE PERMITTED. PHILLIPS CONCEDED THAT THIS MIGHT BE TAKEN AS COMPREHENDING PUBLICATION IN

RESPONSE TO THE KIDNAPPERS DEMANDS.

5. PHILLIPS REMAINS CONVINCED THAT THERE WILL BE A RANSOM DEMAND AT SOME POINT. HE ASKED ME IF THE EMBAUSY WOULD BE IN A POSITION TO FACILITATE PAYMENT IF THAT WERE TO OCCUR. I RESPONDED THAT THE USG HAS A FIRM POLICY AGAINST FACILITATING RANSOM PAYMENTS OR THE NEGOTIATION OF OTHER CONCESSIONS IN THESE CASES.
SHLAUDEMAM

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